

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

LYNN SANSOUCIE,	)	
	)	
Plaintiff,	)	C.A. No. 04-861-JJF
	)	
v.	)	JURY TRIAL DEMANDED
	)	
REPRODUCTIVE ASSOCIATES	)	
OF DELAWARE, P.A.,	)	
	)	
Defendant.	)	

**APPENDIX TO DEFENDANT  
REPRODUCTIVE ASSOCIATES OF DELAWARE, P.A.'S ANSWERING BRIEF  
IN OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

**VOLUME I OF III**

David H. Williams (#616)  
Jennifer L. Brierley (#4075)  
MORRIS, JAMES, HITCHENS & WILLIAMS LLP  
222 Delaware Avenue  
P.O. Box 2306  
Wilmington, DE 19899  
(302) 888-6900  
dwilliams@morrisjames.com  
Attorneys for Defendant  
Reproductive Associates of Delaware, P.A.

Dated: March 14, 2005

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

LYNN SANSOUCIE, )  
 )  
Plaintiff, )  
 )  
v. ) Civil Action  
 ) No. 04-861-JJF  
REPRODUCTIVE ASSOCIATES OF )  
DELAWARE, P.A., )  
 )  
Defendant. )

Deposition of LYNN T. SAN SOUCIE, taken pursuant to notice at the law offices of Morris, James, Hitchens & Williams, 222 Delaware Avenue, 10th Floor, Wilmington, Delaware, beginning at 10:08 a.m., on Thursday, January 13, 2005, before Debra A. Donnelly, Registered Professional Reporter and Notary Public.

APPEARANCES:

JEFFREY K. MARTIN, ESQUIRE  
MARGOLIS EDELSTEIN  
1509 Gilpin Avenue  
Wilmington, Delaware 19806  
for Plaintiff

DAVID H. WILLIAMS, ESQUIRE  
JENNIFER L. BRIERLEY, ESQUIRE  
MORRIS, JAMES, HITCHENS & WILLIAMS  
222 Delaware Avenue, 10th Floor  
Wilmington, Delaware 19801  
for Defendant

-----  
CORBETT & ASSOCIATES  
REGISTERED PROFESSIONAL REPORTERS  
1400 FRENCH STREET WILMINGTON, DELAWARE 19801  
(302) 571-0510

1 LYNN T. SAN SOUCIE,  
2 having been first sworn on oath, was  
3 examined and testified as follows:

4 EXAMINATION

5 BY MR. WILLIAMS:

6 Q. My name is David Williams, and I, as you know,  
7 I represent Reproductive. Jennifer Brierley, who also  
8 represents Reproductive, is here with me. When I say  
9 Reproductive, I am referring to Reproductive Associates  
10 of Delaware --

11 A. Okay.

12 Q. -- in a shorthand way, so we understand each  
13 other.

14 Have you been deposed previously?

15 A. No.

16 Q. I will over the course of the next few hours  
17 be asking you a series of questions. If you don't  
18 understand a question, please tell me that you don't  
19 understand it, and I will --

20 A. Okay.

21 Q. -- attempt to rephrase it so that you do  
22 understand it. This is not an endurance contest. If you  
23 want to take a break for any reason, just let me know,  
24 and we will take a break.

1 A. Okay.

2 Q. If you do answer a question, I'm going to  
3 assume that you did understand it and that your answer is  
4 responsive to the question.

5 A. All right.

6 Q. Fair enough?

7 A. Fair enough.

8 Q. Is there any reason why you can't testify  
9 fully and fairly and accurately today?

10 Are you taking any medications or  
11 operating under any other circumstance which would  
12 inhibit you from testifying?

13 A. Oh, no. No.

14 MR. MARTIN: And let me, since you have  
15 not done this before, let me make sure you let  
16 Mr. Williams complete his --

17 THE WITNESS: Okay.

18 MR. MARTIN -- his question and then you  
19 will have a full opportunity. Otherwise, the record is  
20 not going to read real well.

21 THE WITNESS: Okay. Thank you.

22 BY MR. WILLIAMS:

23 Q. I want to start by asking you about your  
24 educational background. And I don't want to go back to

1 the beginning of time, but let's start after high school,  
2 and if you could just walk me through your education post  
3 high school?

4 A. I went to Hahnemann, at which point I went  
5 there for an MLT.

6 Q. That's Hahnemann Medical College?

7 A. Yes. In 1973. And then I --

8 Q. Let me stop you there.

9 What is an MLT? Is that what you said?

10 A. Right. That's what I went there for, medical  
11 lab technician.

12 Q. Okay.

13 A. And then I went on for further studies at, I  
14 took some courses at Rutgers to get my B.S., Bachelor of  
15 Science in biology.

16 Q. Can you give us a time frame?

17 A. Maybe -- I'm not really sure of the year when  
18 I went there. Not Rutgers, Rowan. I'm sorry. Rowan  
19 College.

20 Q. Let me hand you a document which has been  
21 marked for identification as D1 through D4, and ask you  
22 to turn to the third page. Maybe that will help you.

23 Let me first say, Jeff, I don't think we  
24 need to mark these separately as deposition exhibits

1 since they already bear identification numbers and have  
2 been produced, or will be produced, I guess, in the  
3 litigation.

4 MR. MARTIN: I agree.

5 MR. WILLIAMS: And the D obviously  
6 designates defendant, and then we have stamped the Bates  
7 stamps for the documents sequentially.

8 MR. MARTIN: Just for clarification,  
9 though, when -- we are at the end of our discovery  
10 period. When are they going to be produced?

11 MS. BRIERLEY: Tomorrow.

12 THE WITNESS: Okay.

13 BY MR. WILLIAMS:

14 Q. Turning back to the first page, can you  
15 identify the document?

16 A. Yes, this is mine. This is my resume.

17 Q. And the first page is a cover letter to Marc.  
18 Is that Marc Portmann?

19 A. Correct.

20 Q. And Marc Portmann is an employee of  
21 Reproductive?

22 A. Correct.

23 Q. And I assume that you prepared the resume?

24 A. Yes.



1 Q. I asked you a few minutes ago to try to give  
2 us a time frame on what you were describing as your  
3 educational background. You referred to Hahnemann and  
4 indicated that you received a medical technology degree  
5 in 1975. Is that accurate?

6 A. I didn't finish my degree there.

7 Q. Okay.

8 A. I went on to Rowan to further --

9 Q. How many years -- I'm sorry.

10 A. I was there almost two years, and I didn't  
11 take my MT there. I took it privately. I got my CLT.

12 Q. What is that?

13 A. Clinical lab technician. You can take an  
14 MLT -- what is that called? There is an MLT degree with  
15 some other -- I don't know what -- ASCP. I didn't take  
16 my ASCP, I took my CLT. And I have the certificate for  
17 that. I passed that. And I went on also to Rowan to  
18 take some more courses for my Bachelor of Science. I am  
19 now still continuing my education in Bachelor of Science.  
20 I have two courses left, which I should be done before  
21 the end of this year. I just have two more courses to  
22 take and I will have my Bachelor of Science in healthcare  
23 administration, which I stated there. Actually, I will  
24 have it before 2006. I should have it in another couple

1 months. And exactly where I stated there, California  
2 College of Health Science.

3 So I have my MLT, I am a medical lab  
4 technician, that's what I am, CLT, and I also have a CLP,  
5 which is a clinical lab practitioner certification. And  
6 I have the equivalent now of my Associate's Degree  
7 because I am two credits short of, which I have had all  
8 along anyway, two credits short of my Bachelor's.

9 Q. Okay. If you turn back to the first page of  
10 the document, which is marked D1, you described yourself  
11 as a medical technologist.

12 Was that an accurate description at the  
13 time that this was prepared?

14 A. Well, I'm not sure what the question is.

15 Q. Well, you described yourself as a medical  
16 technologist, and I assume that that was an accurate  
17 description of how you viewed your status and  
18 qualifications as of the time you prepared this document?

19 A. In my eyes, yes.

20 Q. Okay. And how would you describe the  
21 qualifications and skills that a medical technologist  
22 possesses?

23 A. I would describe them as, actually, the same  
24 as any laboratory worker. They do the same -- everyone

1 does the same thing in a lab. So you're -- I was a lab  
2 professional, and I was a senior med tech at Lady of  
3 Lourdes.

4 Q. Can you tell me when the document was  
5 prepared? By that I am referring to D1.

6 A. When I applied there part time every other  
7 weekend while I was working at Bryn Mawr. So it would be  
8 2001.

9 Q. Okay. So you were already working part time  
10 at Reproductive at that point, and you were applying for  
11 a full-time position?

12 A. No, this is when I applied for the part time  
13 every other weekend in the lab.

14 Q. Okay.

15 A. In the laboratory.

16 Q. If you turn to D3, I think you've already  
17 testified on this point, but it identifies about  
18 three-quarters of the way down the page under the heading  
19 certifications, it identifies the various certifications  
20 you possessed?

21 A. Right. Correct. That's what I was  
22 explaining. MLT, clinical lab tech, clinical lab  
23 practitioner, and Associate's.

24 Q. Okay. And, in fact, you provided to

1 Reproductive at least a couple of your certificates. Is  
2 that correct?

3 A. Correct.

4 Q. I'm going to hand you a document that's been  
5 identified as D5 and ask if you can identify that  
6 document?

7 A. That's correct.

8 Q. That's one of your certificates?

9 A. That's one of them. I have a renewal on that  
10 one, too.

11 Q. And what is this organization, The National  
12 Certification Agency?

13 A. NCA, that's one of the certification agencies  
14 that you have a choice of taking when you finish being  
15 trained in the laboratory, you can take this or you can  
16 take ASCP. You have a choice.

17 Q. And what do you have to do in order to secure  
18 the certification?

19 A. You have to work in a lab, you have to have a  
20 certain amount of credits, college credits, you have  
21 to -- you can also go by work experience, how long you've  
22 worked.

23 Q. So it's a combination of your educational  
24 background and your work experience?

1 A. And/or work experience.

2 Q. I'm going to hand you a document that's marked  
3 as D6 and ask if you can identify that document?

4 A. Okay. This is mine.

5 Q. And that's a certification as a medical  
6 technologist?

7 A. That's through sending in all of your  
8 qualifications to them and then they decide if you are  
9 qualified to get this. And you can be part of that then.

10 Q. Do you know when you received the  
11 certification that you have in your hand?

12 A. I don't know when. That was a while back.  
13 Quite a while back. I had the stickers on my original  
14 one, which I have, but this is a copy.

15 Q. Okay. It was before you went to work for  
16 Reproductive?

17 A. Oh, yes. Way before.

18 Q. Let's talk about your work experience in the  
19 profession prior to the time you came to Reproductive.  
20 And, again, the resume may help you with respect to the  
21 time frames.

22 What was your first employment in the  
23 profession?

24 A. Metropolitan Hospital in Philadelphia, 1975 to

1 1988. And then they closed down.

2 Q. What did you do there?

3 A. I started out in the Urinalysis Department,  
4 and then I went to hematology, at which time I was  
5 trained after that for radioimmunoassay. When a position  
6 would open, you would be allowed to apply for it, because  
7 it was union, and to better yourself. So each time I  
8 would apply for a different job and I would get it. And  
9 then I was -- then if there were layoffs, you would take  
10 another position as they had layoffs. So I ended up in  
11 Radioimmunoassay Department, trained in that.

12 Q. What does that mean?

13 A. I tested thyroid testing. It's done by  
14 radioactive material. So I did endocrine testing,  
15 thyroid testing, hepatitis testing, infectious disease  
16 testing. It was specialized, actually.

17 Q. These are testing of tissue or blood samples?

18 A. Blood samples. Blood samples with radioactive  
19 material. And I also worked in the Chemistry Department.  
20 So then I became a generalist.

21 At the last layoff I was in charge of  
22 the RAA Department and the Phlebotomy Department, drawing  
23 of bloods and central receiving. And then it came down  
24 to I was the next one to be laid off if I stayed, and the

1 hospital was closing in December, so I went to our Lady  
2 of Lourdes to apply for a job and got a job in  
3 hematology.

4 Q. Before we get to that, you worked at  
5 Metropolitan Central Hospital for a total of 13 years?

6 A. Correct.

7 Q. And that would be 1975 through 1988?

8 A. Yes.

9 Q. Did you for that time frame, did you work on a  
10 full-time or a part-time basis?

11 A. Full-time basis.

12 Q. I assume that during that time you received  
13 training, specialized training to enhance your  
14 professional skills in some of the areas that you've  
15 described?

16 A. Well, I had to be trained in each department  
17 because everyone does something differently.

18 Q. Is it fair to say that in every lab there are  
19 protocols, and so that there is always some training  
20 required, even if you are highly qualified and  
21 experienced, in order to become familiar with the  
22 protocols in that particular lab?

23 A. Yes.

24 Q. During the time that you were employed by

1 Metropolitan Central Hospital, did you receive a salary?

2 A. Hourly wage.

3 Q. You were a member of a union?

4 A. Yes. Local Union 1199-C.

5 Q. And were all the individuals working in the  
6 lab union?

7 A. Yes.

8 Q. During that 13-year period you had some  
9 supervisory responsibility over other people who were  
10 working in the lab?

11 A. Central receiving and phlebotomy.

12 Q. You had supervisory responsibility?

13 A. Yes.

14 Q. And the people that you supervised worked in  
15 the lab?

16 A. Yes.

17 Q. How many people did you supervise?

18 A. Three.

19 Q. And I assume that you also received benefits?

20 A. Medical benefits, everything, a package.

21 Q. And during this time how would you describe  
22 yourself, as a medical technologist?

23 A. Medical lab technician.

24 Q. And what's the difference between a medical



1 technologist and a medical lab technician?

2 A. I didn't have a Bachelor's or equivalent of  
3 it. As far as duties, there weren't any duties. There  
4 was a pay difference, but not dutywise.

5 Q. At what point, in your view, did you become a  
6 medical technologist?

7 A. When they -- they had a grandfather clause  
8 that came about, oh, when I worked at our Lady of  
9 Lourdes. And people that have been a medical lab  
10 technician before a certain year were grandfathered in  
11 and accepted, and that's when I sent my information to  
12 that clinical lab practitioner, for them to see if I was  
13 able to be certified.

14 Q. That's the point at which you --

15 A. Yeah. Yeah.

16 Q. -- received the certificate --

17 A. Correct.

18 Q. -- that I showed you earlier that's marked as  
19 D6 --

20 A. Correct.

21 Q. -- certifying that based upon a combination of  
22 education and work experience you qualified as a medical  
23 technologist?

24 A. Yes.

1 Q. Is this a nationally-recognized certification  
2 agency?

3 A. I'm not sure. I'm not sure. It was offered  
4 in one of the lab magazines, which is where I got my  
5 schooling information that I'm doing now.

6 Q. The Metropolitan Hospital closes down in 1988,  
7 and you became an employee of our Lady of Lourdes Medical  
8 Center?

9 A. I left there before it closed. It closed in  
10 December. I didn't stay for that. I left -- I believe I  
11 started, I think it was September of that year at Lady of  
12 Lourdes.

13 Q. What position did you assume at Lady of  
14 Lourdes?

15 A. I worked in hematology lab just as a  
16 laboratory worker in hematology.

17 Q. Were you promoted during the time that you  
18 were at Lady of Lourdes?

19 A. I was promoted. I was promoted to, at that  
20 time it was RAA lab, which later -- well, in the meantime  
21 I had also taken this position at Dr. Gordon's office  
22 in-between that. Taken that. And I worked there, it  
23 wasn't full time, and I set up his lab for hematology and  
24 did his oncology testing there. I would draw bloods and

1 run the blood counts, the CBC's there.

2 Q. When you referred and pointed to the paper of  
3 this position, you are pointing to the page that's marked  
4 D3?

5 A. Yes.

6 Q. And that's a part of your resume?

7 A. Right.

8 Q. So you were working part time for Dr. Gordon  
9 during --

10 A. Metropolitan.

11 Q. From 1985 through 1988?

12 A. Yes.

13 Q. When you say you set up and maintained the  
14 oncology lab, there wasn't an oncology lab being operated  
15 by Dr. Gordon until such time as you arrived. Am I  
16 understanding that correctly?

17 A. Yes. He might have had one somewhere else,  
18 but not where I was setting it up in Cherry Hill.

19 Q. And part of setting it up was determining what  
20 kind of instrumentation you needed and what supplies were  
21 needed and then ordering all that stuff and assembling  
22 it?

23 A. Yes.

24 Q. You also, I assume, worked in the lab as

1 needed as a medical technologist?

2 A. I did.

3 Q. Was anybody else working in the lab other than  
4 you?

5 A. We had a nurse that would be there, but she  
6 didn't run any of the blood tests. Just me.

7 Q. She would draw blood?

8 A. Sometimes.

9 Q. And you would also do that sometimes?

10 A. Yes.

11 Q. But with respect to testing of samples, you  
12 would do all that in the lab?

13 A. Yes.

14 Q. And that part-time position ended, or did it  
15 extend into the time period when you were employed by  
16 Lady of Lourdes?

17 A. It ended. I left it because I couldn't deal  
18 with the cancer patients dying. It wasn't for me.

19 Q. So you did have patient contact, I assume?

20 A. A lot.

21 Q. And that patient contact and the patients  
22 dying is something that you didn't find appealing?

23 A. I couldn't detach from them, where other  
24 people that worked there wouldn't get emotionally

1 involved. But I did, and that was a problem.

2 Q. So then we are talking about Lady of Lourdes?

3 A. Yes.

4 Q. And again your position there was a full-time  
5 position?

6 A. Full-time position. You asked me about  
7 getting promoted. I got promoted. A position opened up  
8 in the radioimmunoassay, so I got promoted there. And  
9 then I was made senior tech, which meant I over -- I had  
10 about four employees that worked under me as I over --  
11 would oversee everything that went on. I also ran the  
12 testing. And that lab was endocrine, hepatitis testing  
13 again, and that was done with a gamma counter.  
14 Radiation, it would measure radiation with the test,  
15 which later turned into a special chemistry lab where  
16 they no longer did any of the testing with a gamma  
17 counter. And that was immunoassays. And I remained  
18 there. I also did some phlebotomy work for them. You  
19 would have to go on the floor and draw blood from the  
20 patients. That was required. I ordered. I went for  
21 some advanced testing. They would send me to learn about  
22 instruments. I did all of the quality control in there.  
23 And then I was laid off, at which point  
24 I left.

1 Q. Were you laid off because the hospital closed  
2 or the lab closed or --

3 A. The hospital laid off a lot of people that --  
4 they closed that department down. They were trying to  
5 save money, so a lot of departments were done away with.

6 Q. So that particular hospital stopped doing the  
7 kind of testing that you were doing?

8 A. They did it for a little while, but they said  
9 they were sending them out. I don't know if they did.  
10 They were going to send the testing out.

11 Q. Is it fair to say that in your profession,  
12 like a lot of professions, there is a constant process of  
13 learning new technology, learning about new instruments,  
14 new procedures that might be used to test samples?

15 MR. MARTIN: I'm going to object to the  
16 characterization, Dave. You used the term profession,  
17 and that's my objection. But she can go ahead and  
18 answer.

19 MR. WILLIAMS: Well, let me ask a  
20 question about that.

21 BY MR. WILLIAMS:

22 Q. In your letter of interest to Reproductive,  
23 which is marked D1, can you turn back to the first page?

24 A. (Witness complies.)

1 Q. You describe yourself in the fourth line down  
2 as a loyal professional.

3 Isn't it fair to say that you thought of  
4 yourself as a professional?

5 A. In terms of that interpretation, a  
6 professional is anyone that has a skill, and that's -- I  
7 had a skill.

8 Q. Can you turn to page D2. In the middle of the  
9 page there is a heading that you labeled professional  
10 experience. That's the descriptor that you used in  
11 preparing your resume?

12 A. Correct.

13 Q. I want to return to my question.

14 Is it fair to say that there is a  
15 learning, a constant kind of learning process to learn  
16 about new instruments that are being used and new  
17 procedures, that you are also learning about different,  
18 different areas of testing over the years of your work  
19 experience?

20 A. I'm not sure of that question.

21 Q. Well, between the time that you went to work  
22 for Metropolitan Central Hospital in 1975 and the time  
23 you left Lady of Lourdes in 2000, is it fair to say that  
24 you learned a lot of things about being a medical

1 technologist?

2 A. I learned a lot of things, but I have to say  
3 it's because I wanted to. You can stay in one position  
4 your entire life, but that wasn't what I wanted to do.

5 Q. You wanted to develop your knowledge base and  
6 to grow as a medical technologist?

7 A. I would just be bored doing one thing.

8 Q. Okay. When you worked at Lady of Lourdes, did  
9 you receive a salary?

10 A. Hourly wage.

11 Q. Was that a union environment?

12 A. No.

13 Q. And did you receive benefits?

14 A. Yes.

15 Q. Where did you go after you left Lady of  
16 Lourdes?

17 A. Went to Bryn Mawr Center for Reproductive  
18 Medicine.

19 Q. What was your position there?

20 A. I went there to do -- I actually had to be  
21 trained to do andrology testing.

22 Q. What is andrology testing?

23 A. Testing of sperm for preparation for the IVF  
24 Department.



1 Q. Describe what is involved in that testing?

2 A. Processing the sperm, reading a count, a sperm  
3 count, looking at it under the microscope, identifying  
4 the sample, putting the patient into the room, keeping  
5 logs of quality control. What else? And freezing and  
6 thawing of sperm, too.

7 Q. Does the freezing and thawing of sperm involve  
8 some exercise of judgment and discretion as to how and  
9 when you do that?

10 A. When it's needed. Like if they need it, then  
11 they will tell you I need it right now, as far as  
12 thawing. Freezing, you freeze it when it's a lab order  
13 and they call for freezing it.

14 Q. Does the proper thawing of sperm require some  
15 skill?

16 A. It's not a difficult procedure. It's very  
17 easy. You leave it at room temperature.

18 Q. What else did you do at Bryn Mawr?

19 A. Well, at that point, after I had been there  
20 for a while, I was being trained in the IVF Department,  
21 so I was trained on doing -- they started training me on  
22 retrievals, various things in the lab. The only thing I  
23 hadn't really been trained on when I was there was doing  
24 ICSI, which is injecting the sperm into an egg, and I was

1 going to be sent for that. And I had applied then for  
2 this part-time position because I needed to supplement my  
3 income. So that's when I applied. I saw an ad for  
4 part-time laboratory personnel on a weekend. So that's  
5 when I responded to Marc at Reproductive for the  
6 part-time position in the lab, still working there and  
7 keeping both jobs.

8 Q. Let's back up and define a couple of the  
9 acronyms that you used.

10 The IVF is an acronym for in vitro  
11 fertilization?

12 A. Yes.

13 Q. And ICSI is I-C-S-I?

14 A. Yes.

15 Q. And that is an acronym for some technical  
16 terms?

17 A. Yes, for intracellular sperm injection.

18 Q. And a few minutes ago in your prior answer you  
19 described that that involved injecting sperm directly  
20 into the egg?

21 A. Yes.

22 Q. Would it be fair to say that that is a highly  
23 technical process that requires skill?

24 A. Basically anyone can do it if they're shown

1 how.

2 Q. Isn't it correct to say, however, that the  
3 ICSI technique is not always successful, depending upon  
4 how skillfully it's executed?

5 A. Yeah, you can -- well, you can ruin an egg or  
6 whatever, sure.

7 Q. And that's obviously a problem?

8 A. Right.

9 Q. If an egg gets ruined?

10 A. Well, yes. But it happens. It's human.

11 Q. What else did you do at Bryn Mawr?

12 A. What else did I do? That's everything.

13 Q. Is that it?

14 A. Yeah.

15 Q. Now, you mentioned that you --

16 A. Oh, I did one more thing there. SPA's, sperm  
17 penetration assay. That was to see if the -- they used  
18 that as a test, other places don't always use that, to  
19 see if the person needed ICSI. If it was low, if the  
20 sperm wasn't able to penetrate a mouse, actually, I mean,  
21 a hamster egg, then you knew that it wouldn't penetrate a  
22 human egg. So I did that testing, too. That was in the  
23 andrology lab.

24 Q. You mentioned while you were working at Bryn

1 Mawr, as I understand it, you secured a part-time  
2 position at Reproductive. Is that correct?

3 A. Yes.

4 Q. And you earlier described that as a position  
5 which involved working weekends every other weekend. Is  
6 that correct?

7 A. Every other weekend.

8 Q. And you kept time sheets, did you not?

9 A. Yes, for every other weekend.

10 Q. And the time sheets recorded the hours you  
11 worked?

12 A. Yes.

13 Q. Let me just put a document that's marked D16  
14 in front of you and ask you, is that an example of the  
15 employee time sheet --

16 A. Yes.

17 Q. -- that you would fill out?

18 A. Yes.

19 Q. And then you would be paid by Reproductive on  
20 an hourly basis for the hours worked?

21 A. Yes.

22 Q. What were you doing when you were working for  
23 Reproductive on a part-time basis on weekends?

24 A. I would draw the blood, run it, also process

1 any andrology specimens, the sperm preps for IUI's that  
2 they needed, which is they would inseminate the sperm.  
3 That's it.

4 Q. When you say you would run it, what does that  
5 mean?

6 A. They had an instrument there that you would  
7 have to put the serum after you separate it from the  
8 blood and put it on the instrument. The instrument would  
9 run the test for whatever you tell it the patient needs,  
10 and then it will be reported out, write it on a report  
11 sheet.

12 Q. At some point you applied for a full-time  
13 position with Reproductive?

14 A. I told them I was interested when they had a  
15 position, yeah. Actually, Marc came to me and asked if I  
16 would be interested and I said sure.

17 Q. What was your understanding of the position,  
18 full-time position that was available?

19 A. In the beginning I would help them get the Lab  
20 Corp stuff set up that was to send out for bloods and  
21 things like that, coordinate that. And to be trained in  
22 IVF. But I would still have to continue working on the  
23 weekends with -- until they, you know, or if they got  
24 someone else.

1 Q. Was it at that point when you learned that  
2 there was a full-time position at Reproductive that you  
3 submitted the letter and resume that is in front of you  
4 that's marked D1 through D4?

5 A. No, that was for the lab job.

6 Q. That was for the part-time position?

7 A. Right. Right. I didn't submit anything.

8 Q. I'm handing you an application for employment,  
9 which is marked D7 and D8. Was this application  
10 submitted at the time you were applying for the part-time  
11 position or the full-time position?

12 A. 2000? I'm not sure of the date that I started  
13 there. I think this was the part time. This was the  
14 part time, I believe.

15 Q. When the full-time position opened up, did you  
16 submit an application?

17 A. No.

18 Q. I am placing before you a document that's been  
19 marked for identification as D32. It is an e-mail dated  
20 May 6, 2001, from, I believe it's from Dr. Feinberg?

21 A. Yes.

22 Q. To you?

23 A. (Witness nods head in the affirmative.)

24 Q. Is that correct?

1 A. Yes.

2 Q. Did you receive this e-mail?

3 A. Yes, I did. To my computer, yes.

4 Q. And the subject is welcome aboard. Is that  
5 correct?

6 A. Yes.

7 Q. Is this welcoming you aboard to status as a  
8 full-time employee at Reproductive?

9 A. Yes.

10 Q. And it outlines a number of things about the  
11 position that you were assuming at Reproductive. Is that  
12 right?

13 A. Yes, it does.

14 Q. The first paragraph talks about IVF laboratory  
15 responsibilities. That's the in vitro fertilization lab?

16 A. Yes.

17 Q. And describes an immediate need to have you  
18 learn all aspects of IVF, ICSI, and micromanipulation?

19 A. That's part of ICSI.

20 Q. Okay. And when you came on board at  
21 Reproductive as a full-time employee, did that process,  
22 in fact, occur of learning all aspects of those various  
23 duties?

24 A. Their -- it was learning all aspects of duties

1 their way.

2 Q. You already had a lot of skills, and learning  
3 it their way with all their protocols in the labs that  
4 Reproductive operated?

5 A. Yes.

6 Q. Reproductive operated an IVF lab. Correct?

7 A. Correct.

8 Q. And it also operated an endo/andro lab?

9 A. Yes.

10 Q. What is the endo/andro lab as distinguished  
11 from the IVF lab?

12 A. That's just where the bloods were run and the  
13 sperm was processed, but it all kind of intertwined.

14 Q. Dr. Feinberg invited you to attend at  
15 Reproductive's expense the ICSI course in Norfolk,  
16 Virginia, in July.

17 Did you attend?

18 A. He didn't invite me. That was one of the  
19 things I told him I already had paid through Bryn Mawr,  
20 that Bryn Mawr paid, and in order for me to leave, I  
21 wouldn't feel right that they had paid for the course.  
22 If they had wanted me to start, would he reimburse them?  
23 And he agreed. And I said that would be the only way I  
24 would accept this position. They came at me for the



1 position. And he agreed to that.

2 Q. How long was this ICSI course in Norfolk?

3 A. It was a week.

4 Q. So this was a full week of training on the  
5 ICSI procedure?

6 A. Yes.

7 Q. And would it be fair to assume that the full  
8 week -- well, let me back up and ask this question.

9 Prior to July of that year, did you perform the ICSI  
10 procedure?

11 A. No. That's why Bryn Mawr was sending me.

12 Q. In order to acquire that skill?

13 A. Yes.

14 Q. And I just asked about whether it was a full  
15 week of training. I mean, this is all day for five days.  
16 Is that --

17 A. It wasn't all day. It was maybe half a day.  
18 It wasn't that good a course, I may add.

19 Q. And in the last sentence of numbered paragraph  
20 1 -- well, even before that it talks about Dr. Michael  
21 Tucker. Were you familiar with Dr. Michael Tucker?

22 A. Yes. He oversaw the lab. He was the  
23 director.

24 Q. And Dr. Michael Tucker is a recognized

1 specialist in this area?

2 A. Yes. He has a Ph.D. and he is an IVF  
3 specialist.

4 Q. Did you spend time with him in his lab in  
5 Atlanta?

6 A. Yes.

7 Q. How much time did you spend in his lab in  
8 Atlanta, or at Shady Grove?

9 A. I think two days.

10 Q. And did Dr. Tucker provide you with some  
11 training during that time period?

12 A. It was mainly to see another lab.

13 Q. So are you saying that he didn't provide you  
14 with training?

15 A. Correct.

16 Q. He did not?

17 A. He did not.

18 Q. Let me hand you a document that's marked D12  
19 through D15 and ask you to identify that document?

20 A. Yes, it's mine.

21 Q. When did you prepare it?

22 A. After I left Reproductive.

23 Q. This is the resume that you prepared as an  
24 embryologist after you left Reproductive?

1 A. Yes.

2 Q. And you were seeking employment as an  
3 embryologist?

4 A. Yes.

5 Q. And you were making representations to  
6 prospective employers about your professional training  
7 and experience?

8 A. Yes.

9 Q. If you turn to D15 --

10 A. Okay.

11 Q. -- there is a heading called further  
12 information.

13 Do you see that?

14 A. Right.

15 Q. The third sentence says you observed and  
16 trained under Dr. Michael Tucker daily operation and  
17 procedures in the IVF lab, including retrievals, ICSI,  
18 embryo freeze, transfers, assisted hatching,  
19 endocrinology testing. And then you describe a time  
20 period from November 23 to November 27, 2001?

21 A. Correct.

22 Q. So you were representing to prospective  
23 employers that you trained under Dr. Tucker. Isn't that  
24 correct?

1 A. In my lab I trained under Dr. Tucker. He came  
2 up to our lab quite often, and if I had a question for  
3 him, he would sit down and show me or answer me.

4 Q. You mention Dr. Tucker's name in this resume  
5 because he is nationally recognized as one of the leading  
6 people in the field. Is that correct?

7 A. I mentioned his name because it was just  
8 someone that I had been trained by.

9 Q. You were trained by other people that you  
10 didn't mention, but you mentioned him. My question is --

11 A. Okay.

12 Q. Am I correct that he is one of the most widely  
13 respected and recognizable names in this field?

14 A. You are correct in saying that. That wasn't  
15 my intention.

16 Q. Going back to the e-mail from Dr. Feinberg,  
17 which is D32, the last sentence of paragraph 1  
18 Dr. Feinberg says that, As a result of these terrific  
19 training opportunities, I feel confident that you will  
20 soon join Marc in the elite, quote, best 1 percent, close  
21 quote, club of embryologists. Do you see that?

22 A. Yes.

23 Q. So was that your understanding of  
24 Dr. Feinberg's anticipation, that you would not just be

1 an embryologist, but be among the best embryologists? Is  
2 that your understanding of what he was communicating to  
3 you?

4 A. I -- I took that as a pep talk.

5 Q. Meaning that you didn't think he seriously  
6 intended for you to become a member of the elite club of  
7 embryologists?

8 A. I don't know what his intentions were. I'm  
9 sure he wanted me to do the best that -- I mean, he is  
10 hiring me. That would be something you would want when  
11 you hire someone, sure.

12 Q. And, in fact, wouldn't it be fair to say that  
13 at least as of the time you left Reproductive, it's your  
14 belief that you were a good embryologist?

15 A. Sure.

16 Q. Well trained, good experience as an  
17 embryologist?

18 A. I still needed more experience and training.

19 Q. In order to achieve what objective?

20 A. To get my confidence up.

21 Q. The second paragraph talks about the  
22 andro/endo lab. Is that correct?

23 A. Correct.

24 Q. And describes that you would, in addition to

1 working in the IVF lab, you would have responsibilities  
2 with day-to-day work in the andro/endo lab, and describes  
3 the various kinds of tasks that would be performed in  
4 that lab. Is that right?

5 A. Correct.

6 Q. And of the items listed there, did you perform  
7 all of those, all of those duties?

8 A. Yes.

9 Q. When you worked in the andro/endo lab, did you  
10 supervise anyone else?

11 A. I wasn't considered a supervisor, but he did  
12 put me in charge of overseeing things because of the  
13 language barrier with Tsai, who is the other gentleman  
14 that worked there.

15 Q. When you worked in the andro/endo lab, you  
16 worked independently?

17 A. No, Marc was in charge of me. He made  
18 decisions.

19 Q. Was Marc in the andro/endo lab at all times  
20 you were there?

21 A. He wasn't in the room all the time.

22 Q. As you performed a semen analysis, for  
23 example, you would do that independently, would you not?

24 A. Yes. Yes, I would.

1 Q. And the same thing with -- well, let's just go  
2 down the list of items here, and tell me with respect to  
3 each item whether you worked independently.

4 A. I did phlebotomy independently. I ran the  
5 endocrine assays, semen analysis, sperm freezing and  
6 sperm prep independently.

7 Q. When things were really busy in the IVF lab,  
8 you would spend time in the IVF lab. Is that right?

9 A. In the beginning very little time, yes.

10 Q. As time went on, you would spend more and more  
11 time in the IVF lab?

12 A. When we got someone else to come in and work.

13 Q. And that's because the IVF lab was  
14 sufficiently busy that there was a need for more than one  
15 embryologist at the peak periods?

16 A. When we were up in cycle, yes.

17 Q. And then there were times when the IVF lab  
18 wasn't so busy and you might spend more of your time in  
19 the endo/andro lab?

20 A. Yes.

21 Q. With respect to your work schedule, paragraph  
22 3 talks about your schedule. You didn't punch a clock or  
23 keep time cards, did you?

24 A. No.

1 Q. And there was flexibility in your schedule in  
2 the sense that if things were really slow, you wouldn't  
3 necessarily work the full range of hours, you might take  
4 a long lunch or even leave early if things were slow?

5 A. I never did. I never did.

6 Q. You are telling me you never did?

7 A. I never did.

8 Q. Did you receive the title of associate lab  
9 manager?

10 A. Yes.

11 Q. Your compensation, you were paid at the outset  
12 an annualized salary of \$62,500?

13 A. Yes.

14 Q. And that salary was paid to you on a monthly  
15 basis?

16 A. Yes.

17 Q. In equal monthly installments, I assume?

18 A. Yes.

19 Q. During the time that you were at Reproductive,  
20 did you receive salary increases?

21 A. I received one.

22 Q. What was that increase?

23 A. I think I went to 65/5.

24 Q. What benefits did you receive?



1 A. Medical benefits.

2 Q. Was that just for you or were there any  
3 dependents covered?

4 A. It was for my husband and I and my  
5 stepdaughter, which I later dropped.

6 Q. Did you receive 401(k) benefits in the form of  
7 matching contributions?

8 A. I never got any because you have to be there a  
9 certain time, but we were all part of it. I did put some  
10 money in.

11 Q. Life insurance?

12 A. Yes.

13 Q. Long-term disability?

14 A. I'm not sure if that was part of the package,  
15 but possibly.

16 Q. You are not saying it wasn't, you just don't  
17 remember?

18 A. I just don't know.

19 Q. In addition to what we've already talked  
20 about, Reproductive paid for you to attend various  
21 national meetings and to coauthor scientific work?

22 A. It paid for one meeting, the ASRM.

23 Q. And how often did you go to that meeting?

24 A. I only went once.

1 Q. What's the ASRM?

2 A. It's the Association for Reproductive  
3 Medicine. And I was able to go because one of the nurses  
4 was pregnant and backed out so they asked me if I wanted  
5 to go.

6 Q. What was that meeting?

7 A. It was -- they have it every year, and it's  
8 for all the people that have anything to do with IVF,  
9 whether you are andrology, embryology, a nurse in the  
10 office, a secretary in the office. And it -- they have a  
11 lot of -- it's actually promoting new products and things  
12 and a lot of lectures.

13 Q. Did you coauthor any scientific works?

14 A. I got some data for them out of the computer  
15 for some scientific projects that Marc was writing up.

16 Q. Did your name appear on any?

17 A. They did put my name on it.

18 Q. How many scientific works?

19 A. There is a couple of them that I did some  
20 research. I think it's in my resume. Offhand, I don't  
21 remember. One was a poster presentation, D15.  
22 Blastocyst cryopreservation.

23 Q. Okay. You are referring to the last page of  
24 the resume you prepared after you left Reproductive, and

1 it's identified as D15. Is that right?

2 A. Correct.

3 Q. And you describe these presentations and  
4 represent to prospective employers that you were involved  
5 in these presentations. Did you go to San Antonio,  
6 Texas?

7 A. That's the ASRM. Yes.

8 Q. You did go?

9 A. Yes, I did go.

10 Q. And did you go to Seattle, Washington in  
11 October of 2002?

12 A. No.

13 Q. But you were involved in the development of  
14 the materials that were presented in Seattle, Washington  
15 in October 2002?

16 A. Yes.

17 Q. And you were attributed as one of the  
18 participants in the preparation of those materials?

19 A. Yes.

20 Q. When you were at Reproductive, were you  
21 involved in training other employees?

22 A. Yes.

23 Q. Which employees were you involved with?

24 A. I helped train Linda Morrison, and I helped to

1 train Dawn Prinz. When I say helped to train, I wasn't  
2 the only one that trained them. Tsai also, the other  
3 gentleman, did, too.

4 Q. Did you train them with respect to how to work  
5 in the endo/andro lab?

6 A. Yes.

7 Q. And, in fact, the two people that you just  
8 mentioned, weren't you also involved in recruiting those  
9 people and recommending that they be hired?

10 A. I recommended to Marc to contact them, and he  
11 did the interviewing, yes.

12 Q. And hired them?

13 A. He hired them.

14 Q. Wasn't there also a third employee that you  
15 recommended?

16 A. That was a recommendation from Linda, really.  
17 Bonnie was another girl. I don't remember her last name.

18 Q. Mm-hmm.

19 A. Linda also helped to recommend Dawn, because  
20 they were friends. So we both recommended them. But I  
21 didn't know that much about Bonnie.

22 Q. Did you also train Linda in the IVF lab?

23 A. I helped to train her. Marc really did the  
24 training. I would just be in there kind of to make sure

1 that it was done correctly or if she had a question.

2 Q. A few minutes ago I started to hand you a  
3 document that's marked as D34. I couldn't find it. Now  
4 I've found it. Can you identify that?

5 A. That's a card.

6 Q. That's a copy of your business card?

7 A. Right.

8 Q. And it describes the title that you indicated  
9 you held?

10 A. Right.

11 Q. I want to turn in more detail to the duties  
12 that you performed at Reproductive.

13 Let's talk about egg retrievals. What  
14 did you do in that respect?

15 A. You mean what is the procedure for that?

16 Q. And what was your role in that procedure?

17 A. Collecting the -- the physician would collect  
18 the eggs, which would be Dr. Feinberg, into a tube. The  
19 medical assistant would help him and put the tube into  
20 our department, and we would invert the tube into a dish  
21 and look for eggs. After we would find the eggs, we  
22 would put them in their assigned spots under the  
23 patient's name into the incubator and further process  
24 them later.

1 Q. When that process was going on, you had to be  
2 fast at performing that task? There is some time  
3 pressure involved, is there not?

4 A. There is a discrepancy in that. You shouldn't  
5 be slow, but you don't need to be prodded to go faster  
6 with a stopwatch.

7 Q. But you need to know what you are doing to be  
8 able to do it quickly?

9 A. Yeah. Yeah.

10 Q. After the egg is retrieved, what is the next  
11 step?

12 A. At Reproductive the next step is to trim the  
13 egg and put it into another dish that was already made up  
14 with drops of media from the incubator and put it away.

15 Q. When you say clean the egg, is there an enzyme  
16 that you use that removes the cells that are surrounding  
17 the egg?

18 A. That isn't what you do. It's cutting with two  
19 needles the cumulus away.

20 Q. And you do that because you need to be able to  
21 observe the egg more readily to determine when it's  
22 mature?

23 A. No.

24 Q. Why do you do that?

1           A.    It's just to process it to fit it into the  
2 drops, I imagine. It isn't done in every lab.

3           Q.    But is it correct to describe the process as  
4 one of removing the cells surrounding the egg?

5           A.    That's a different thing that you are thinking  
6 of.

7           Q.    Okay. Well, tell me what I'm thinking of.

8           A.    You are thinking of hyaluronidase, when  
9 someone is going to get ICSI, and that is stripping the  
10 egg. But that's a chemical process, and you use a  
11 pipette, different pipettes to strip the egg to see if  
12 it's matured. That's something different. That's done  
13 later.

14          Q.    You did that?

15          A.    I did that.

16          Q.    And what happens if you do that task  
17 improperly?

18          A.    If you try -- if you squeeze an egg in a  
19 thinner pipette, you can remove the zona outside, or you  
20 can -- I guess if you leave it in there long enough, you  
21 can disintegrate the egg.

22          Q.    So you can destroy the egg if you don't do it  
23 correctly.

24          A.    Yeah. Yeah.

1 Q. So you would agree that that requires some  
2 skill to do that properly?

3 A. Or the proper tools.

4 Q. What is the next step in the IVF lab?

5 A. You need to clarify if you are talking about  
6 Reproductive Associates or any IVF lab.

7 Q. Yes, Reproductive Associates.

8 A. After it was put away, the eggs were put away,  
9 we checked to see if sperm was ready and processed that.  
10 Also we would -- what would we do next? We would look at  
11 the -- see if there was another patient coming through  
12 after all the eggs were put away and cleaned up, and then  
13 get ready to process the next patient.

14 Q. At Reproductive, unlike some other labs, ICSI  
15 was performed in all cases?

16 A. Most cases.

17 Q. And the reason for that is it maximizes the  
18 potential fertilization?

19 A. No, the reason for that is to get their rates  
20 up, the pregnancy rates up.

21 Q. So, in your professional opinion, you don't  
22 see any value in doing ICSI in most cases?

23 MR. MARTIN: I'm going to object again  
24 to the form. Go ahead.



1 THE WITNESS: From what I've been told  
2 and taught, the reason to do ICSI is if someone has a low  
3 sperm count or infertility they've gone through three  
4 times and their eggs didn't fertilize.

5 BY MR. WILLIAMS:

6 Q. Have you been told that ICSI guarantees a  
7 fertilization rate of 70 percent?

8 A. I've been told that at Reproductive.

9 Q. And do you have some basis for professionally  
10 disagreeing with Dr. Feinberg's judgment on that issue?

11 A. Well, I don't know if I'm qualified. I only  
12 know what I've been told.

13 Q. Well, you expressed an opinion.

14 A. Yes.

15 Q. I'm just trying to explore what the basis for  
16 your opinion is that the only reason to do that is to get  
17 the rates up. I assume that you believe you have some  
18 basis for that opinion, an opinion which apparently  
19 differs from Dr. Feinberg's opinion?

20 A. The -- yeah, from what I've seen in the other  
21 labs and from what I've been told in the other labs and  
22 seen that to be true, if someone has normal sperm and  
23 they haven't failed before, there isn't any reason to  
24 subject them to that because you can injure eggs that

1 way.

2 Q. Have you studied fertilization rates with and  
3 without the use of ICSI?

4 A. We get them printed up at work, at my work all  
5 the time.

6 Q. What was the fertilization rate at  
7 Reproductive on average?

8 A. I believe they were 65 percent, I think.  
9 Somewhere around there.

10 Q. Take me to the next step in the in vitro  
11 fertilization process?

12 A. We would wait a couple of hours, usually after  
13 lunchtime, and then the eggs would be stripped. The  
14 method they used there was firing polishing pipettes and  
15 pulling them, which they had to be different sizes so you  
16 had to get all different sizes, and you would put the  
17 eggs in hyaluronidase and strip them. These are the ones  
18 for ICSI, which was every one. And then put them back  
19 into their dish to be ICSI'd by whoever after the sperm  
20 was processed, which was Marc.

21 Q. Do you then have to periodically observe the  
22 eggs to determine when the egg is mature?

23 A. When you are -- right before you are -- after  
24 you strip them. And you should know that before you go

1 to ICSI them. You can only ICSI mature eggs.

2 Q. So before you do that, part of the process in  
3 the lab is you have to have the knowledge and skill to  
4 make a judgment as to when an egg is mature. Is that  
5 correct?

6 A. Yeah, you have to see a polar body on it.

7 Q. And that involves discretion and judgment,  
8 does it not?

9 A. Not discretion and judgment. If you look at  
10 it and you see this little blip on the outside, you know  
11 it's mature. It's either there or it's not.

12 Q. And that's something that you did?

13 A. Mm-hmm.

14 MR. MARTIN: Yes?

15 THE WITNESS: Yes.

16 BY MR. WILLIAMS:

17 Q. You also have to know what a fertilized egg  
18 looks like?

19 A. Yes.

20 Q. And that's something that you did as well?

21 A. Yes.

22 Q. In addition, you have to know whether an egg  
23 appears to be abnormally fertilized. Is that right?

24 A. Yes.

1 Q. So you have to have the skill and training to  
2 know the difference between an abnormally fertilized egg  
3 and one that looks normal?

4 A. Yes.

5 Q. And that requires the exercise of judgment and  
6 discretion, does it not?

7 A. Yes.

8 Q. And that's something you did?

9 A. Yes.

10 Q. You also along the way, throughout this  
11 process there is documentation that you do in the lab.  
12 Is that right?

13 A. Yes.

14 Q. When you were at Reproductive you would  
15 appropriately document the important steps in the  
16 process?

17 A. Yes.

18 Q. If, for example, there were 15 cases going  
19 on -- do you know what I mean by cases?

20 A. Yes.

21 Q. -- in the IVF lab, would that be considered  
22 busy for the people working in the IVF lab?

23 A. Do you mean in a day or a week or over --

24 Q. Over a period of a week or more.

1                   How long is the total process?

2           A.     They would have 15 max usually, didn't always  
3     amount to that, in two weeks. And that's not very busy.  
4     That's very slow.

5           Q.     Okay. What would you describe as being busy?

6           A.     Five and six a day.

7           Q.     And on those occasions were both you and Mark  
8     Portmann principally working in the IVF lab?

9           A.     I think I remember one time when we had four  
10    or five, maybe. So, yes, we were both there. Rarely did  
11    we have more than four.

12          Q.     You were both there how often, how frequently  
13    on average?

14          A.     Well, if we were up in cycle, we were there,  
15    all weekend, too. So we were there seven days. And that  
16    would go on even the week after the retrieval, because  
17    eggs have to incubate for five more days. So it would be  
18    like for three weeks straight.

19          Q.     Okay. Approximately how much of your time did  
20    you spend in the IVF lab as opposed to the endo/andro  
21    lab?

22          A.     I didn't spend very much time in the  
23    andro/endo lab once we were up in cycle.

24          Q.     You spent most of your time at that point

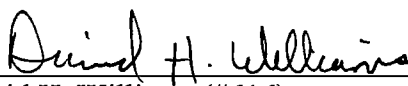
**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

LYNN SANSOUCIE,	)	
	)	
Plaintiff,	)	C.A. No. 04-861-JJF
	)	
v.	)	JURY TRIAL DEMANDED
	)	
REPRODUCTIVE ASSOCIATES	)	
OF DELAWARE, P.A.,	)	
	)	
Defendant.	)	

**CERTIFICATE OF SERVICE**

I hereby certify that on March 14, 2005, I electronically filed **APPENDIX TO DEFENDANT REPRODUCTIVE ASSOCIATES OF DELAWARE, P.A.'S ANSWERING BRIEF IN OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT** with the Clerk of Court using CM/ECF which will send notification of such filing(s) to the following:

Jeffrey K. Martin, Esquire  
Margolis & Edelstein  
1509 Gilpin Avenue  
Wilmington, DE 19806

  
\_\_\_\_\_  
David H. Williams (#616)  
Jennifer L. Brierley (#4075)  
MORRIS, JAMES, HITCHENS & WILLIAMS, LLP  
222 Delaware Avenue  
P.O. Box 2306  
Wilmington, DE 19899  
(302) 888-6900  
dwilliams@morrisjames.com  
Attorneys for Defendant  
Reproductive Associates of Delaware, P.A.

Dated: March 14, 2005